

REMARKS

A. Clarification

On page 1 of the Office Action, the Examiner indicates that claims 1-40 are rejected. However, claims 25, 26, 28 and 29 were previously cancelled from the application. Clarification is therefore respectfully requested.

B. Response to Claim Rejections – 35 USC 103

Rejection of claims 1-3, 6, 10-12, 15, 17-21, 27, 30-32 and 35-38

On page 3 of the Office Action, the Examiner has rejected claims 1-3, 6, 10-12, 15, 17-21, 27, 30-32 and 35-38 under 35 U.S.C 103(a) as being unpatentable over Jonsson et al. (U.S. Patent 5,513,246), hereinafter referred to as “Jonsson”. The Applicant respectfully traverses the Examiner’s rejection for the reasons set forth herein below.

The focus of Jonsson is on the criteria used to determine when handoff occurs. Specifically, Jonsson implements a routine that prepares a cell candidate list wherein “monitored cells are qualified and ranked according to path loss and signal strength.” (col. 9, lines 55-57). Jonsson’s routine then “checks to see if there is a better cell in terms of lower path loss or greater signal strength than the present cell” (S17 and col. 10, lines 3-6). If a channel can be allocated in a “better” cell, “a handover to the corresponding cell is then attempted (S25). The present base station waits to learn the results of the handover attempt, and if the handover was successful (S29), relinquishes communications with the mobile station in favor of its successor base station” (col. 10, lines 19-24).

However, Jonsson is silent on the details regarding the way in which handover is attempted. There is no discussion of a “handoff signal” as is claimed in independent claims 1, 10, 17, 27 and 30 of the instant application. More specifically, Jonsson fails to disclose anything remotely resembling the claimed converter (which is used for translating the handoff signal from the first mode into the second mode). In fact, there is no discussion of any “modes” in Jonsson, nor does the Examiner provide any insight into what features of Jonsson she considers would correspond to the first and second modes as claimed.

In fact, Jonsson’s lack of any discussion of handoff signals or modes is fatal to its applicability against independent claims 1, 10, 17, 27 and 30. That is to say, any reference that fails to discuss handoff signals, its conversion or first and second modes necessarily fails to teach a converter for translating the handoff signal from the first mode into the second mode. The mere disclosure of a microprocessor in the prior art (such as 130’ in Fig. 3 of Jonsson, referred to by the Examiner) without any reference to its functionality with respect to a handoff signal, its conversion or first and second modes is, in the Applicant’s respectful view, insufficient to justify comparison with the claimed converter.

With Jonsson being at such odds with the present invention, the differences between the prior art and the present invention appear to be insurmountable to a person of ordinary skill in the art. Moreover, it is noted that the Examiner has not provided any insight or rationale to support the obviousness rejection. Therefore, it is respectfully submitted that the rejection of independent claims 1, 10, 17, 27 and 30 under 35 USC 103 be withdrawn.

Regarding dependent claims 2-3, 6, 11-12, 15, 18-21, 31-32 and 35-38, each of these claims is dependent on one of independent claims 1, 10, 17, 27 and 30, and therefore incorporates by reference all of the limitations of the respective base claim. As such, the above arguments that support a finding of non-obviousness of the independent claims also apply to dependent claims 2-3, 6, 11-12, 15, 18-21, 31-32 and 35-38, and the Examiner is therefore respectfully requested to withdraw the rejection under 35 USC 103 of dependent claims 2-3, 6, 11-12, 15, 18-21, 31-32 and 35-38.

Rejection of claims 4, 5, 13, 14, 16, 39 and 40

On page 6 of the Office Action, the Examiner has rejected claims 4, 5, 13, 14, 16, 39 and 40 under 35 U.S.C 103(a) as being unpatentable over Jonsson in view of Bernstein et al. (U.S. Patent 6,574,203), hereinafter referred to as “Bernstein”. The Applicant respectfully traverses the Examiner’s rejection for the reasons set forth herein below.

It is noted that each of claims 4, 5, 13, 14, 16, 39 and 40 depends on claim 1. Now, it has already been established above that Jonsson does not disclose a handoff signal or its conversion, as claimed in claim 1. Thus, even if Bernstein teaches first and second frequencies as the Examiner suggests, this still does not remedy Jonsson’s failure to teach a handoff signal or its conversion. It follows that the combination of Jonsson and Bernstein is still as fatally deficient as Jonsson alone, as it does not provide for conversion of a handoff signal from the first mode into the second mode, as claimed in claim 1, from which claims 4, 5, 13, 14, 16, 39 and 40 depend.

For completeness, it should be mentioned that the deficiencies of Bernstein as a reference cited under 35 U.S.C. 102 were discussed at length in the response to the office action mailed June 15, 2007. In particular, it had been shown that Bernstein’s handoff results from a decision-making process in the mobile station and that, in Bernstein, there is no “handoff signal” to be either received, converted or transmitted, much less by a device for integration into a base station.

With Jonsson being at such odds with the present invention, and with Bernstein failing to remedy Jonsson’s critical deficiencies, the differences between the prior art and the present invention appear to be insurmountable to a person of ordinary skill in the art. Moreover, it is noted that the Applicant not only disagrees with the motivation to combine the references advanced by the Examiner (namely, “to provide more precisely tuned network”), but the hypothetical existence of such motivation is in actual fact irrelevant, since the combination of the cited references still fails to suggest the elements of the claimed invention.

In view of the foregoing, it is respectfully requested that the rejection of claims 4, 5, 13, 14, 16, 39 and 40 under 35 USC 103 be withdrawn.

Rejection of claims 7, 8, 9, 22, 24 and 34

On page 7 of the Office Action, the Examiner has rejected claims 7, 8, 9, 22, 24 and 34 under 35 U.S.C 103 as being unpatentable over Jonsson in view of Bernstein, and Change [*sic*] et al. (U.S. Patent 6,621,811), hereinafter referred to as "Chang". The Applicant respectfully traverses the Examiner's rejection for the reasons set forth herein below.

Each of claims 7, 8, 9, 22 and 24 is dependent on either claim 1 or 17, and therefore incorporates by reference all of the limitations of the respective base claim. As shown above, Jonsson and/or Bernstein are totally devoid of any discussion of a handoff signal, much less a converter for effecting conversion of such handoff signal. It is respectfully submitted that Chang does not remedy the above-noted deficiencies of the combination of Jonsson and Bernstein. Rather, Chang is merely concerned with the production of pilot beacon signals with different carrier frequencies. As such, combining Chang with Jonsson and/or Bernstein still fails to teach or suggest all of the claimed limitations, which therefore precludes a finding of obviousness, irrespective of the hypothetical existence of any purported motivation to combine these references. The Examiner is therefore respectfully requested to withdraw the rejection under 35 USC 103 of claims 7, 8, 9, 22 and 24.

Regarding claim 34, it will be noted that many of the elements of claim 1 that confer patentability over the combination of Jonsson and Bernstein are present in some form in claim 34. Specifically, claim 34 recites a CDMA re-direction signal (akin to a handoff signal, absent from Jonsson and Bernstein). Also, claim 34 teaches first and second converters (absent from Jonsson and Bernstein) for converting the CDMA re-direction signal. Also, claim 34 recites the CDMA re-direction signal being delivered over a coverage area to indicate to a subscriber station to switch frequencies (also

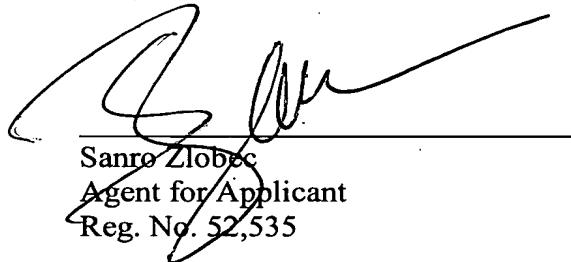
absent from Jonsson and Bernstein). Moreover, it is respectfully submitted that Chang, due to its limited focus mentioned above, does not remedy the above noted deficiencies of Jonsson and Bernstein. As such, the combination of Jonsson, Bernstein and Chang still fails to teach or suggest all of the claimed limitations, which therefore precludes a finding of obviousness, irrespective of the hypothetical existence of any purported motivation to combine these references. The Examiner is therefore respectfully requested to withdraw the rejection under 35 USC 103 of claim 34.

CONCLUSION

In view of the foregoing, the Applicant is of the view that claims 1-24, 27, 30-32 and 34-40 are in allowable form. Favourable reconsideration is requested. Early allowance of the Application is earnestly solicited.

If the application is not considered to be in full condition for allowance, for any reason, the Applicant respectfully requests the constructive assistance and suggestions of the Examiner in drafting one or more acceptable claims pursuant to MPEP 707.07(j) or in making constructive suggestions pursuant to MPEP 706.03 so that the application can be placed in allowable condition as soon as possible and without the need for further proceedings.

Respectfully submitted,



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